

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
www.flmb.uscourts.gov

In re:

STEVEN LAWRENCE BRICKNER,

Debtor.

Chapter 13

Case No. 8:16-bk-974-CPM

**DEBTOR'S OBJECTION TO CLAIM NO. 2 FILED BY
THE DEPARTMENT OF THE TREASURY – INTERNAL REVENUE SERVICE**

PURSUANT TO LOCAL RULE 2002-4, THE COURT WILL CONSIDER THIS MOTION, OBJECTION, OR OTHER MATTER WITHOUT FURTHER NOTICE OR HEARING UNLESS A PARTY IN INTEREST FILES A RESPONSE WITHIN THIRTY (30) DAYS FROM THE DATE SET FORTH ON THE PROOF OF SERVICE ATTACHED TO THIS PAPER PLUS AN ADDITIONAL THREE DAYS FOR SERVICE. IF YOU OBJECT TO THE RELIEF REQUESTED IN THIS PAPER, YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE COURT AT SAM M. GIBBONS UNITED STATES COURTHOUSE, 801 NORTH FLORIDA AVENUE, TAMPA, FLORIDA 33602, AND SERVE A COPY ON THE MOVANT'S ATTORNEY, MATTHEW B. HALE, ESQUIRE, STICHTER, RIEDEL, BLAIN & POSTLER, P.A., 110 E. MADISON STREET, SUITE 200, TAMPA, FLORIDA 33602 AND ANY OTHER APPROPRIATE PERSONS WITHIN THE TIME ALLOWED.

IF YOU FILE AND SERVE A RESPONSE WITHIN THE TIME PERMITTED, THE COURT MAY SCHEDULE AND NOTIFY YOU OF A HEARING, OR THE COURT MAY CONSIDER THE RESPONSE AND MAY GRANT OR DENY THE RELIEF REQUESTED WITHOUT A HEARING. IF YOU DO NOT FILE A RESPONSE WITHIN THE TIME PERMITTED, THE COURT WILL CONSIDER THAT YOU DO NOT OPPOSE THE RELIEF REQUESTED IN THE PAPER, WILL PROCEED TO CONSIDER THE PAPER WITHOUT FURTHER NOTICE OR HEARING, AND MAY GRANT THE RELIEF REQUESTED.

STEVEN LAWRENCE BRICKNER (the “**Debtor**”) by and through his undersigned attorney, hereby files this objection (the “**Objection**”) pursuant to Federal Rule of Bankruptcy Procedure 3007 to Claim No. 2 (the “**Claim**”) filed by the Department of the Treasury – Internal Revenue Service (the “**IRS**”), and in support thereof states as follows:

1. The Debtor filed a Voluntary Petition under Chapter 13 of the Bankruptcy Code on February 5, 2016.

2. On March 22, 2016, the IRS filed the Claim in the total amount of \$226,961.97, designating the amount of \$172,351.26 as an unsecured priority claim and the amount of \$54,610.61 as an unsecured general claim, for the years 2011 through 2015.

3. The Debtor objects to the Claim on the grounds that the claims as filed are purely speculative. Indeed, the IRS's attachment to the Claim states that each and every line-item is either "Pending Examination" or "Unassessed-No Return."

4. The Debtor has been engaged in a complex dispute with the IRS over the propriety of these tax amounts. The Debtor maintains the amounts shown on the IRS's Claim are not valid. On May 25, 2016, the Debtor received confirmation that his dispute with the IRS has been forwarded to the Office of Appeals (attached as Exhibit A). And on June 28, the Debtor received a letter from the Tampa, FL Appeals office regarding the disputed taxes (attached as Exhibit B).

5. Further, the Debtor did not file a tax return in 2014 because he had no taxable income. And he has requested an extension to file his 2015 tax return. (Proof of the extension is attached as Exhibit C.)

6. The Debtor reserves his rights to raise further objections as may be appropriate.

WHEREFORE, the Debtor respectfully requests that this Court enter an order sustaining this Objection, disallowing the Claim, and granting such other and further relief as may be just.

DATED: July 11, 2016

/s/ Matthew B. Hale
Matthew B. Hale
Florida Bar No. 110600
Stichter Riedel Blain & Postler, P.A.
110 East Madison Street, Suite 200
Tampa, Florida 33602
(813) 229-0144 – Phone
(813) 229-1811 – Fax
mhale@srbp.com
Attorneys for Debtor

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the *Debtor's Objection to Claim No. 2* filed by the Department of Treasury – Internal Revenue Service has been furnished on this 12th day of July, 2016, by either the Court's CM/ECF electronic mail system or by U.S. Mail to:

Office of the U.S. Trustee
Jon Waage, Chapter 13 Trustee

Department of the Treasury – Internal Revenue Service
Attn: Joseph Wathen, Bankruptcy Specialist
600 Arch St.
Philadelphia, PA 19106-1611

Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

Attorney General Of The United States
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

Office Of The United States Attorney
Attention Civil Process Clerk.
400 North Tampa Street, Suite 3200
Tampa, FL 33602

/s/ Matthew B. Hale
Matthew B. Hale



Department of the Treasury
Internal Revenue Service
Small Business and Self-Employed
4210 Metro Parkway Suite 115, MS 4107/SAT
Fort Myers FL 33916

STEVEN BRICKNER
6015 AUDUBON MANOR BLVD
LITHIA, FL 33547-5025

Date: MAY 25 2016

Taxpayer ID number:

6362

Form:

1040

Tax period(s) ended:

December 31, 2011, 2012, and 2013

Person to contact:

Steven Troiano

Contact telephone number:

239-938-7548

Employee ID number:

08-85031

Dear STEVEN BRICKNER:

We received your written protest to our examination report on May 16, 2016 and prepared the attached document based on your additional information. We'll forward your case with this information to the Office of Appeals and an Appeals officer will contact you to discuss your case.

If you have questions, you can contact the person listed above at the telephone number shown.

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Steven Troiano".

Steven Troiano

Supervisory Internal Revenue Agent

Enclosures:

Form 886-A, Explanation of Items

EXHIBIT A



**Department of the Treasury
Internal Revenue Service**

Appeals Office

2203 North Lois Avenue
Suite 812
Tampa, FL 33607

STEVEN BRICKNER
6015 AUDUBON MANOR BLVD
LITHIA, FL 33547-5025

Date:

June 28, 2016

Person to contact:

Name: Alice M Bucciero

Employee number: 1000236959

Telephone: 813 367 8428

Fax: 813 367 8480

Tax period(s) ended:

12/2011 12/2012 12/2013

Dear Mr. Brickner:

We received your case for consideration in the Tampa, FL Appeals office.

Who we are

Appeals is separate from and independent of the IRS office taking the action that you disagree with. We review and resolve disputes in a fair and impartial manner to both you and the government by applying the law and judicial decisions to the facts. We conduct our reviews by telephone or mail. If you prefer a face-to-face review at the Appeals office closest to your residence or business address, please let us know within 15 days from the date of this letter. We will try to accommodate your request to transfer your case to the appropriate Appeals field office for consideration.

What you can expect

We'll make every attempt to contact you as quickly as possible. We'll consider the facts in your case and try to resolve the dispute based on the information you provided to Examination. We will make every effort to reach a resolution with you in a manner that is fair and impartial to both you and the government. If you have any new information or evidence that you plan on submitting, please contact me immediately. I may refer it to Examination for consideration. You will receive their comments, and you will have an opportunity to respond.

If we determine that you owe the IRS, the law requires the IRS to charge interest until you pay the amount you owe in full. If the amount you owe is subject to penalties, additional penalty amounts will continue to increase until you pay in full. If you owe or potentially owe tax, interest, or penalties, you can make a payment at any time.

If your case involves a claim for a refund or credit for overpayment, the law limits the time for filing your claim. If the IRS mailed a legal notice of claim disallowance to you, the 2-year period for filing suit began on the date of the claim disallowance letter. However, if you sign a Form 2297, Waiver of Statutory Notification of Claim Disallowance, the 2-year period for filing suit began on the date you filed the waiver. We'll make every effort to reach a determination in your case prior to the end of the 2-year period for filing suit in court, but you are responsible for monitoring the deadline for filing suit. If the deadline for filing a suit expires, the IRS can't issue a refund, even if your claim was otherwise allowable.

What you can do

- If you want to stop or reduce interest on part or all of the balance due, send tax payments to the Appeals office working your case.

EXHIBIT B

Letter 4141 (Rev. 6-2013)

Catalog Number 33391W

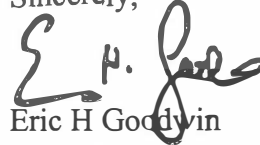
- If you have questions about the Appeals process or how you can prepare for your hearing, communicate with the “Contact Person” listed above.
- If you want an attorney, certified public accountant, or a person enrolled to practice before the IRS to represent you, submit a Form 2848, *Power of Attorney or Declaration of Representative*, or similar written authorization. This requirement doesn’t apply if your case is docketed before the United States Tax Court and your representative is the attorney of record. If you need more information about the requirements for representing taxpayers before the IRS, you can get a copy of Treasury Department Circular 230 at most IRS offices or on the IRS website at **www.irs.gov**.
- If the IRS mailed a legal notice to disallow your claim, you should monitor your deadline for filing suit.

Additional information

Visit our website at **www.irs.gov/appeals** for additional information.

At the conclusion of the Appeals process, we may ask you to participate in an Appeals customer satisfaction survey. Your participation is voluntary and the survey will not ask for personal or financial information of any kind. We’ll use the results of the survey to improve the Appeals process and our service to taxpayers.

Sincerely,



Eric H Goddwin
Appeals Team Manager

Enclosures:

Publication 4227 Welcome to Appeals


Publication 4167 Introduction to Alternative Dispute Resolution

Notice 1016 How to Stop Interest on Your Account

cc: Brian B Burek

EXHIBIT C

▼ DETACH HERE ▼

Form 4868 Department of the Treasury Internal Revenue Service (99)		Application for Automatic Extension of Time To File U.S. Individual Income Tax Return		FDIA4601L 07/29/15 2015
For calendar year 2015, or other tax year beginning		, 2015, ending		
Part I	Identification	Part II	Individual Income Tax	
1	Steven Brickner Brimmer, Burek & Keelan LLP 5601 Mariner Street, Suite 200 Tampa, FL 33609	4	Estimate of total tax liability for 2015... \$ 0.	
		5	Total 2015 payments... 0.	
		6	Balance due. Subtract line 5 from line 4 (see instructions)... 0.	
		7	Amount you are paying (see instructions)... 0.	
2		8	Check here if you are 'out of the country' and a U.S. citizen or resident (see instructions) <input type="checkbox"/>	
		9	Check here if you file Form 1040NR or 1040NR-EZ and did not receive wages as an employee subject to U.S. income tax withholding <input type="checkbox"/>	

JP BRIC 30 0 201512 670